

1 **IN THE UNITED STATES DISTRICT COURT**

2 **FOR THE DISTRICT OF ARIZONA**

3 IN RE BARD IVC FILTERS
4 PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

5 This Document Relates to Plaintiff Joe
6 Hayward, 2:17-cv-01246-DGC

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8 **PLAINTIFF’S UNOPPOSED MOTION TO SUBSTITUTE PARTY**
9 **AND AMEND THE COMPLAINT**

10 Plaintiff Joe Hayward, by and through undersigned counsel, and pursuant to FRCP
11 25(a) and 15(a)(2) hereby move the Court to substitute Joe Hayward Jr., Expected
12 Administrator of the Estate of Joe Hayward, as Plaintiff by way of an Amended Short
13 Form Complaint in the form attached hereto as Exhibit 1, and in support, states as
14 follows:
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- 16 1. Plaintiff Joe Hayward was implanted with a Bard IVC Filter and subsequently
17 discovered injuries in 2017. Plaintiff retained undersigned counsel, who filed a
18 Complaint on her behalf against the Defendants for Joe Hayward’s IVC Filter-
19 related injuries.
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21 2. This case is part of a settlement with Bard.
22
23 3. Plaintiff Joe Hayward unexpectedly passed away August 8th, 2020.
24
25 4. Joe Hayward Jr. is the Expected Administrator of the Estate of Joe Hayward.
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27 5. Federal Rule of Civil Procedure 25(a)(1) provides that “if a party dies and the
28 claim is not extinguished, the court may order substitution of the proper party. A

1 motion for substitution may be made by any party or by the decedent's successor
2 or representative."

3 6. Plaintiff hereby submits an Amended Short Form Complaint, attached hereto as
4 Exhibit 1, which substitutes Joe Hayward Jr., Expected Administrator of the Estate
5 of Joe Hayward, as Plaintiff.
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7 7. The death certificate of Joe Hayward has been requested by Plaintiff's counsel.
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10 8. The Suggestion of Death for Joe Hayward was filed contemporaneously herewith.

11 9. Counsel for Defendants has indicated that they have no objection to this motion.
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13 WHEREFORE, Plaintiff respectfully requests that this Court grant Plaintiff's Unopposed
14 Motion to Substitute Party and Amend the Complaint and order the Clerk to file the
15 Amended Short Form Complaint, attached hereto as Exhibit 1.
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18 DATED: 08/28/2020

Respectfully Submitted,

19 /s/ Marlene J. Goldenberg
20 Stuart L. Goldenberg (*pro hac vice*)
21 Marlene J. Goldenberg (*pro hac vice*)
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